

CLARKE COUNTY BOARD OF SUPERVISORS

December 16, 2003Regular Meeting9:00 a.m.

Board of Supervisors' Meeting Room

At a meeting of the Board of Supervisors of Clarke County, Virginia, held in the Board of Supervisors' Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia on Tuesday, December 16, 2003.

Present

Chairman John Staelin, Vice Chairman Hobert, Supervisor Byrd, Supervisor Dunning, and Supervisor Weiss

Also Present

Keith Dalton, Jeff Lineberry, Bob Childress, Ricky Pope, Gem Bingol, George Ohrstrom, Vidi Lloyd, Richie Wilkins, Mark Bergoff, Ed Breslauer, Eleanor Smalley, John McCuan, David Ash, Tom Judge, Charles Johnston, Jerry Herrmann, Val Van Meter and other citizens and members of the press.

Call To Order

Chairman Staelin called the meeting to order at 9:09 a.m. in the Board of Supervisors' Meeting Room of the Circuit Courthouse.

Adoption of Agenda:

Add: Closed Session for Personnel and Disposition of Real Estate – David Ash

Add to Miscellaneous:
Resolution – Joint Committee on School Construction – John R. Staelin
Planning and Zoning Fee Structure Review – A.R. Dunning, Jr.
Proposal to Pursue Request For Qualifications – A.R. Dunning, Jr.

Supervisor Dunning moved to adopt the agenda as modified. The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Absent

Approval of Meeting Minutes:

Regular Meeting November 18, 2003

Supervisor Byrd requested the following modifications:
Page 828: Third paragraph from bottom last word - change from "lever" to "level".

Supervisor Byrd moved to approve the minutes as modified. The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye

Supervisor Dunning	-	Aye
Supervisor Weiss	-	Absent

Citizen Comment Period

No citizens appeared to address the Board.

Consent Agenda

Commonwealth of Virginia Department of Health Annual Agreement

David Ash, County Administrator, presented the annual agreement with the Health Department.

Supervisor Dunning moved to approve the agreement as presented. The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Absent

Virginia Department Of Transportation

Jeff Lineberry and Bob Childress appeared before the Board of Supervisors to provide the monthly update. Ricky Pope, Matt Dana and Sabrina Tarbell also accompanied Mr. Lineberry.

Jack Ender's Boulevard

Jeff Lineberry provided the following resolution for review and approval by the Board.

RESOLUTION

WHEREAS, the Clarke County Board of Supervisors added Project No. 0700-021-115,M501, the improvement of Jack Enders Boulevard from Route 7 Business to 0.15 mile south of Route 7 Business, to the County's Secondary System Six Year Construction Program with the 2002 update; and

WHEREAS, The Virginia Department of Transportation conducted a Public Hearing on September 10, 2003 from 4:00 to 7:00 p.m. at the Berryville Town Council Chambers for the purpose of obtaining feedback on this project; and

WHEREAS, it appears a majority of the citizens who provided feedback are in favor of this project; and

WHEREAS, it appears that the Virginia Department of Transportation has made every attempt possible to address issues that were raised during the Public Hearing process without adversely impacting adjacent property owners and/or adding additional significant costs to the project; and

WHEREAS, it appears several citizens, as well as the Town of Berryville suggested the southern project limits be extended to include curb and gutter and sidewalk on the east side of Jack Enders Boulevard to the intersection of Blue Ridge Street, for purpose being to improve drainage and enhance pedestrian safety in this residential neighborhood; and

NOW, THEREFORE LET IT BE RESOLVED, that the Board of Supervisors of Clarke County fully supports and approves the project # 0700-021-115,M501 design as presented at the aforesaid Public Hearing; and.

BE IT FURTHER RESOLVED, that the Board of Supervisors supports and approves the aforesaid extension of curb and gutter and sidewalk on the east side of Jack Enders Boulevard to the intersection of Blue Ridge Street; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Adopted this 16th day of December 2003.

Copy Teste:

John R. Staelin, Chairman
Clarke County Board of Supervisors

Mr. Lineberry distributed a copy of his enumerated responses to questions originating from the Board of Supervisors Work Session conducted on Monday, December 8, 2003. He introduced Matt Dana and Sabrina Tarbell, VDOT Design Engineers, who provided a sketch of the proposed changes to Jack Enders Boulevard. Members of the Board queried the possibility a moving the intersection to the west.

- 1) Mr. Lineberry stated that VDOT had looked at shifting the road to the west and determined that it was not feasible. It would also require the purchase of right of way on the Whirley property. The shift would provide only limited improvement and could create an 8-12 month delay. A shift in the centerline would require additional extension of the box culvert across the Town Run and would require reopening the environmental review and approval process. The change would also require another public hearing on the project.

Ms. Tarbell, stated that the road follows the curve and geometrically follows the centerline; also, they must have a certain radius of curve to meet design criteria. In the proposed plans, there is a 40' radius; however per Bob Childress, they would like a 70' radius but such a change would require purchase of additional land.

- 2) Jeff Lineberry stated that the entrance to Mr. Tomblin's property had been widened from 30' to 40', which is the maximum allowable for a commercial entrance.
- 3) Bob Childress stated that the island located between the businesses on Route 7 at the eastern edge of the Tomblin property is part of a legislative requirement, which can be removed upon mutual agreement by the property owners.
- 4) Mr. Lineberry stated that the addition of curb and gutter is to delineate the roadway. He further stated that the bridge and structure on the Tomblin property were located on a permanent VDOT drainage easement. Mr. Childress said that a structure had been built in the easement but there is no record that VDOT had agreed to modify the easement.

Installation of a traffic signal is depends upon the whether the intersection meets the criteria for signalization.

- 5) Jeff Lineberry stated that the turn lane for southbound traffic is typical for an industrial section. The turn lane will be located on VDOT right of way and will allow for several tractors to line up at a time.
- 6) Per Mr. Lineberry, pavement markings and signage will be used to address potential traffic issues on the southbound lane.
- 8) The traffic signal by Berryville Graphics will improve traffic flow and can be adjusted during peak hours according to Mr. Lineberry. The addition of right and left turn lanes will reduce the delays in and out of Berryville Graphics.

- 9) The 1979 project has served the County well but it has out lasted its life stated Mr. Lineberry siting the addition of an industrial park and the increased truck traffic that had not been anticipated in the ten-year traffic growth study performed in the 1970's.
- 10) Jeff Lineberry opined that trucks swinging wide into the westbound lane are still a possibility; however the project has widened the turning radius.

Keith Dalton, Berryville Town Manager, put forth that while the new design was not perfect the Town appreciated that VDOT had attempted to work with in the existing right of way.

Supervisor Dunning put forth that the area in question was in the jurisdictions of Supervisor Weiss and Vice Chairman Hobert and he would support any decision they made regarding the design. He proposed that Supervisor Weiss and Vice Chairman Hobert meet with VDOT to discuss further.

Vice Chairman Hobert thanked VDOT for their responses. He requested that the matter be tabled until the next regular meeting of the Board of Supervisors on Tuesday, January 20, 2004.

Brush Removal

Supervisor Byrd's query VDOT in regarding brush removal stating that some residents were clearing their own brush along the road way. Mr. Lineberry informed the Board that some brush removal had been done in the fall but was limited due to budgetary concerns.

VDOT Budget and Manpower Concerns

Mr. Lineberry informed the Board that there was an \$80MM State-wide budget for snow removal; and this season, several storms have already been encountered. He stated that VDOT would be more frugal this year in its snow removal efforts concentrating on primary and secondary roadways. He warned that a decrease in standards might be seen.

Jeff Lineberry stated that the VDOT Berryville Maintenance Facility staff is short four persons and there is a freeze on hiring. He advised that two more people would soon be retiring. Further, the two individuals injured during Hurricane Isabel are still unable to return to work.

Through-Truck Traffic on Old Charlestown Road

Supervisor Byrd requested written information be sent to her. She indicated that she still had not been contacted by Frederick County regarding this matter. Mr. Lineberry elucidated that through trucks are allowed if the owner resides on the road; and it is the responsibility of Frederick County to designate an alternate truck route.

Hermitage Public Meeting

Vice Chairman Hobert expressed his appreciation to VDOT for their comments and the concerns expressed by the residents of the Hermitage. He requested VDOT's participation in working with them on a resolution to the problem.

Traffic Signal Town of Boyce

Supervisor Dunning requested that VDOT place a traffic signal at the intersection in Boyce. He informed the Board that the study done in the 80's found that the intersection was short approximately 50 to 100 cars per day to meet the criteria. Mr. Dunning opined that the traffic through the area has increased dramatically particularly with two schools using this intersection. He expressed concern for safety siting accidents at the intersection.

Mr. Lineberry stated that he had attended the last meeting of the Town of Boyce and wanted to be proactive. He stated that a turn lane would be needed with the signal.

Chairman Staelin reminded the Board that the Town of Boyce was opposed to a traffic signal the last time the matter was proposed.

Traffic Signals Hermitage Boulevard and Battlefield Estates [Mosby Boulevard]

Supervisor Dunning stated that he supported the installation of signals at both Hermitage and Mosby Boulevards. Mr. Childress stated that the Battlefield Estates intersection was currently being studied.

Gun Barrel Lane

Supervisor Dunning brought forth visibility issues caused by an outgrowth of pine trees on a VDOT right of way. Bob Childress stated that the property owners have been contacted and the foliage in question is on their property. They have stated that they do not wish to trim back the over growth. Mr. Lineberry stated that would need a sight easement for the intersection to be able to act. Pete Dunning wished to state for the record that this over growth creates a dangerous situation and impairs sight on this section of roadway.

Clarke County Animal Shelter Status Update

George Ohrstrom, II appeared before the Board to provide an update on the proposed Clarke County Animal Shelter. He provided background information regarding the need for a new shelter stating that the current facility is not in compliance and the County could be fined up to \$1,000 per day. However, the Clarke County Humane Foundation [CCHA], recognizing the need, have raised money to meet the State mandate for the shelter by funding the construction of a new shelter. Mr. Ohrstrom informed the Board that Phase I of the project was complete, which includes gifting of the land, design and \$164,000 of site work.

Phase II of the project is short of funds due mainly to sanitation and drainage mandates, which have added an additional \$300,000 over the first estimates. The original cost of the shelter was \$615,500 with 10% added for contingencies. Currently, the cost is \$315,000 more for a total of \$929,917. At this time, CCHA has raised \$528,924, which does not include the cost of the land, which is an estimated at \$160,000.

Mr. Ohrstrom told the Board that the CCHA has raised 85% of the original goal but has only raised 60% of the expanded goal. At this time, there is a shortfall of \$400,000; and the Foundation will commit to raising \$200,000 of the remaining amount and is requesting the County to fund \$200,000.

Supervisor Byrd stated that the fees charged by the Animal Shelter for such things as impoundment and adoptions covers only the cost of sheltering the animals and does not provide funds to pay any debt.

Supervisor Dunning stated that he was aware that the present facility was in violation and that it would cost the County far more than \$200,000 to fix the facility. He commended the CCHA for there fundraising efforts. He explained that the Shelter would be built by CCHA but leased back to the County for a token fee. Mr. Dunning strongly recommended that the construction not be left through another winter.

Chairman Staelin stated that the matter needed to be put before the Finance Committee for review and also commended CCHA for their efforts. Tom Judge advised that the appropriation would require a Public Hearing.

Supervisor Dunning moved that FY 2004 budget be amended to increase expenditure by \$200,000, for the purpose of granting to the Clarke County Humane Foundation funds for the construction of an animal shelter pursuant to Virginia Code 3.1-796.96, and subject to terms of a contractual agreement for the use of these funds and the matter be set for public hearing on January 20, 2004 at 10:00 a.m. or as soon thereafter as the matter may be heard.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Abstain
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Absent

Supervisor Byrd, as a member of the Clarke County Humane Foundation, abstained from the vote on this matter.

Public Hearing – Special Use / Site Plan – Omnipoint Communications SUP-03-05

Omnipoint Communications Cap Operations LLC, (Richard and Mary Dimmel, property owners) requests approval of a Special Use and Site Plan for an 86-1/2 foot monopole for telecommunications antennae located in the 6000 block of the north side of John Mosby Highway, Tax Map Parcel 29-((A))-18, Greenway Magisterial District, zoned Agricultural Open-Space Conservation (AOC). SUP-03-05

Chuck Johnston, Planning Administrator, provided an overview of the Special Use / Site Plan SUP-03-05. He informed the Board that it had been unanimously approved by the Planning Commission. He advised that the utilities were underground and no trees would be removed.

At 10:35 am, Chairman Staelin opened the public hearing for citizen comment.

Mark Bergoff, representative for the applicant, appeared before the Board. He explained that the 86-1/2 foot monopole was a collaborative effort on behalf of the applicant and the County. He stated that they had been limited in the area due to the historic district and the Arboretum. Mr. Bergoff thanked County staff for working with them on this matter.

There being no additional persons wishing to address the Board concerning this matter Mr. Staelin closed the public comment portion of the public hearing at 10:38 am.

Supervisor Dunning stated that Omnipoint had fulfilled all of the requirements and they had worked closing with County staff. He apprised the Board that recent property sales would suggest that a tower does not adversely affect property value.

Supervisor Byrd put forth concerns regarding the monopole at the Stuart M. Perry quarry; she did not like the color or the array of antennae. Mr. Bergoff stated that this pole would not be like the one at the quarry explaining they were using the color recommendation of the Planning Commission and it was flush mounted.

Supervisor Weiss asked if the Stuart Perry monopole could be retrofitted. Mark Bergoff stated that each pole was determined on a case-by-case basis and designed depending on need. The quarry pole is a platform array, which increases visibility but provides greater coverage.

Brian Reeler, Project Manager, put forth that the pole could be painted and Omnipoint would be willing to paint the pole. However, the array could not be reduced as the current antennae design was required to cover the area. Supervisor Dunning asked the cost of poles that resemble trees. Mr. Reeler stated that these poles are costly starting at \$200,000 for fabrication alone, while the normal pole costs approximately \$50,000.

Supervisor Dunning moved to approve SUP-03-05 as written.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye

Supervisor Weiss - Aye

County-wide Explosives Ordinance

The Clarke County Board of Supervisors will consider the amendment of the Code of Clarke County so as to:

- a) prohibit the use of explosives within 100 feet of private wells, public waterworks, private sewage disposal systems, public sewerage system and treatment works, and perennial springs and*
- b) to allow the use of explosives between 100 feet and 500 feet of private wells, public waterworks, private sewage disposal systems, and public sewerage system and treatment works, and perennial springs only after submission and approval by the Clarke County Board of Septic and Well Appeals of a Blasting Plan that addresses the potential impact of the proposed blasting activity on such facilities.*

Chuck Johnston appeared before the Board to present an overview of the proposed County-wide explosives ordinance. He stated that over 3,000 dwellings in the County rely upon private wells and springs for water. This amendment was proposed to protect these valuable water resources, as well as private septic systems. He explained that the County-wide ordinance follows up on the an ordinance recently passed that prohibits blasting in the area of Prospect Hill Spring.

At 10:59 am, Chairman Staelin opened the public hearing for citizen comment.

Keith Dalton, Manager - Town of Berryville, expressed concern regarding the amendment as written, as well as the definition of perennial springs. Giving an example of the blasting down in the Hermitage subdivision, he asked how the ordinance would apply to the Town and the Annexation area. He stated that this ordinance affects the Town's project to extend the outfall line to the Shenandoah River. Mr. Dalton opined that this change could increase project cost up to 20% or \$400,000. The Town's water and sewer is not tax funded and the increased cost would be passed on to utility users. Mr. Dalton requested that the Town of Berryville and the Annexation areas A and B and public utilities be excluded from the ordinance.

Shannon Dulaney, County resident, opined that the ordinance would increase construction costs impacting the cost of building and the price of private drainfields. He sited houses on Bloom Road that required blasting stating that this could not be down now because of the close proximity of the drain fields. He said that if they could not blast they would have to use a ram hoe. He expressed concern that the increased cost would be passed on to homebuyers; and with land values going up, the costs could discourage people from buying in Clarke County.

Supervisor Weiss responded that the ordinance is a preclusion of blasting not building.

Richie Wilkins, developer and property own in Clarke County, stated that in Berryville the restriction of 100 feet from public utilities in the proposed ordinance would ban blasting on every lot they develop. He informed the Board that the homes built in the Hermitage required blasting. He stated that the County encourages building near public utilities and this would discourage that practice. Mr. Wilkins told the Board that the property in Boyce was redesigned to accommodate the Prospect Hill Spring Ordinance and streets were built up above the rock.

Chairman Staelin agreed with Mr. Wilkins stating that the County does encourage people to build close to public utilities.

There being no additional persons wishing to address the Board concerning this matter Mr. Staelin closed the public comment portion of the public hearing at 11:15 am.

Supervisor Dunning expressed sympathy for Mr. Wilkins regarding the requirements in the Town. He told the Board that ten years ago a study revealed that 40% of the wells in the County were polluted due to septage. This ordinance is designed to reduce fissures in the rock, which directly contributes to the pollution.

Keith Dalton provided additional information regarding the outfall line stating that it had been installed in the late 1800's, with majority done in the mid 1930's. The new line would follow Dog Run to the river and the design is environmentally friendly. He reiterated that the additional cost would be a hardship. Mr. Dunning stated that the County used pneumatics from Millwood to Boyce for that sewer line. Chairman Staelin stated the use of pneumatics was requested after the bidding package was accepted without cost increase.

Mr. Johnston stated that a definition and description of perennial springs was included in TA-03-13, which was scheduled to be set for Public Hearing at the December 16, 2003, meeting of the Board of Supervisors. He advised that the Board of Wells and Septic Appeals would be responsible for reviewing blasting plans. He expressed his agreement with Mr. Dalton that the Town of Berryville and the Annexation areas should be excluded from the proposed amendment.

By consensus, it was agreed to exclude these areas. Chairman Staelin requested that the ordinance also refer to the definition of perennial springs.

An Amendment to the Code of Clarke County

Sections to be added shown in ***bold Italics***

Section to be deleted shown ~~struck through~~

16 DECEMBER 03

EXPLOSIVES

1. Purpose

More than 3,000 existing dwellings in Clarke County rely on private wells and septic systems for their water source and sewage disposal systems. In addition, portions of public water and sewer systems traverse areas of the County outside of town corporate limits. Use of explosives is hereby limited near:

- a. private wells so as to protect the quality and quantity of private well water,
- b. private septic systems so as to insure their effectiveness in processing sewage and the potential contamination of the groundwater, and
- c. public waterworks and sewer system and treatment works so as to ensure such facilities are not damaged.

2. Definitions

For the purpose of this ordinance "explosive" shall be as defined in §59.1-137, Code of Virginia. For the purpose of this ordinance "perennial spring" shall be as defined in §§143 and 184 of the Code of Clarke County.

3. Prohibited Area

Except in incorporated towns and the Berryville Annexation Area, use of explosives is prohibited within 100 feet of private wells, public waterworks, private sewage disposal systems, public sewerage system and treatment works, and perennial springs.

4. Limited Area

Between 100 feet and 500 feet of private wells, public waterworks, private sewage disposal systems, public sewerage system and treatment works, and perennial springs the use of explosives is allowed only after submission and approval by the Clarke County Board of Septic and Well Appeals (the Board) of a Blasting Plan that addresses the potential impact of the proposed blasting activity on such facilities.

5. Blasting Plan

The Blasting Plan shall include the following elements:

- a. Demonstration that the proposed improvements, including construction of buildings, earthwork operations, road construction, utility installation, and storm drainage/stormwater management facilities, for which blasting is to occur are located and designed so as to require the least intensive degree of blasting necessary and that it is necessary to remove the rock rather than relocating development improvements, changing elevations, etc.;
- b. A program for a pre-blast survey of all existing above and below ground facilities within 500 feet of the site proposed for the use of explosives;
- c. A blasting schedule identifying the location, size, and time period of blasting activities;
- d. A statement indicating that:

- i) all blasting shall be done by licensed blasters and the contractor shall conform to all federal, state, and local laws and regulation regarding transportation, storage, and use of explosives; and
 - ii) the contractor shall be fully responsible and liable for all damage incurred to publicly owned facilities as a result of the contractor's use of explosives and blasting operations regardless of whether or not the contractor had complied with such federal, state, or local laws and regulations.
 - e. A statement that blasting work shall be performed in the presence of a licensed blaster;
 - f. Other requirements that in the opinion of the Board ensures protection of wells, water works, drainfields, and sewage disposal systems.
- 6. Insurance**
The contractor shall take out and maintain, during the period of blasting operations plus 30 days, special liability and property damage insurance for all personal and property damage incurred as a result of the contractor's use of explosives and blasting operations. The Board shall approve the coverage and amount of such insurance. No explosives shall be delivered to the site until proof of such insurance coverage is delivered to the Board. If the coverage or amount of insurance is not deemed sufficient, a special bond covering the blasting operations may be required by the Board and the bond's costs shall be paid by the contractor.
- 7. Notice**
All governmental agencies as required by law, including the Board, shall be notified before the period of blasting commences.
- 8. Review Costs**
The Contractor shall pay the County's costs for professional consultant review of the Blasting Plan.

Supervisor Dunning moved to adopt the amendment to the County Code as modified.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Boyce Crossing Tree Preserve Open Space Easement

Chuck Johnston, Planning Administrator, appeared before the Board to review the proposal of Greystone Properties, LLC to donate a conservation open space easement on 3.61 acres in the Town of Boyce that contains a grove of 200+ year old oak trees. George Ohrstrom and Pat McKelvey, both on the Conservation Easement Authority, were present at the meeting. Mr. Ohrstrom stated that the Authority was very pleased with the tree preserve. He expressed his sympathy for the opponents to development around this piece of property; but opined that the Authority does not set where development occurs. He relayed the Conservation Easement Authority's approval of the amendment.

Chairman Staelin noted references to signage on page 3 of the Deed of Easement. He requested that "until January 1, 2008" be added to the sentence (b) advertise the sale or lease of property in Boyce Crossing.

Vice Chairman Hobert requested that the Tree Preserve Maintenance Agreement be revised so that it is clear that amendments to this agreement are recommended by the committee established in the agreement and approved by the Conservation Easement Authority.

Vice Chairman Hobert moved to accept the Deed of Easement and the Tree Preserve Maintenance Agreement as amended, and the Tree Protection Specifications as drafted; and further, John R. Staelin be authorized to execute the agreement once modified.

The motion carried as follows:

- Chairman Staelin
- Aye
- Vice Chairman Hobert
- Aye
- Supervisor Byrd
- Aye
- Supervisor Dunning
- Aye
- Supervisor Weiss
- Aye

Chairman Staelin extended to Mr. Wilkins the gratitude of the Board for the creation the tree preserve. Supervisor Weiss opined that this action went above and beyond expectations.

Virginia General Assembly Grant Application for Greenway Court

Chuck Johnston appeared before the Board to provide them with a brief overview of the grant application. He explained that a study is to be done of the property. This grant is a 50% match and there is the possibility of federal grant money as well. Mr. Johnston assured the Board that no local money would be involved.

Supervisor Dunning moved to endorse the grant application for Greenway Court.

The motion carried as follows:

- Chairman Staelin
- Aye
- Vice Chairman Hobert
- Aye
- Supervisor Byrd
- Aye
- Supervisor Dunning
- Aye
- Supervisor Weiss
- Aye

Resolution Providing Guidelines for the Historic Preservation Commission

Chuck Johnston provided an overview of the guidelines to the Board. He stated that the proposed new resolution include the criteria for Certificates of Appropriateness, the Secretary of the Interior's Standards for Rehabilitation reference by these ordinance criteria and guidelines to interpret the ordinance criteria. He explained to the Board that the guidelines were derived from a 1990 resolution and were modified to more clearly state the intent and objectives of the review process. He informed the Board the Historic Preservation Commission had unanimously recommended that the Board of Supervisors adopt the proposed resolution. Mr. Johnston explained further that since these are guidelines and not ordinances; therefore a public hearing is not required.

Supervisor Byrd moved to adopt the resolution.

The motion carried as follows:

- Chairman Staelin
- Aye
- Vice Chairman Hobert
- Aye
- Supervisor Byrd
- Aye
- Supervisor Dunning
- Aye
- Supervisor Weiss
- Aye

Johnson Williams Senior Apartments – Discussion of Expansion

Chuck Johnston provided a brief overview of the proposal made by Graham Driver of Community Housing Partners, the holders of the long-term lease on the property. Community Housing Partners are interested in expanding the facility, which has been operating at full occupancy for eight or more years. They are open to any ideas regarding expansion and expressed a desire to work with the County to provide more affordable housing. Per Mr. Johnston, no written proposal was provided but CHP has expressed a desire to develop the

four acres belonging to the County. Also, they currently have only efficiency apartments; and they would like to include one-bedroom units.

Supervisor Dunning requested staff to contact Parks and Recreation to determine whether there was a need for the property that was once a soccer field. Chairman Staelin asked staff to follow up with Mr. Driver to have him address the Board with their proposal, what they deem affordable and the proposed rents. He requested that Mr. Johnston solicit input from the Town of Berryville. Vice Chairman Hobert expressed a desire to solicit input from other entities that might wish to purchase.

Request For Qualifications

Supervisor Dunning requested staff to prepare a Request for Qualifications for engineering studies for the Double Tollgate area. Particular attention to water and sewer locations and assessment of specific issues is requested. For clarification, Vice Chairman Hobert requested a written statement of intent for the engineering study. It was determined that staff should look at this request and discuss at the January meeting of the Board of Supervisors.

Set Public Hearing - Septic Ordinance Text Amendment – TA-03-13

The Clarke County Board of Supervisors will consider the amendment of the County Septic Ordinance, Section 143-7 Definitions and Section 143-11 Appeals & Variances so as to alter the definition of a Spring and restructure the appeals board and variance procedure. TA-03-13 (AT)

Chuck Johnston and Alison Teetor, Natural Resources Planner, provided an overview of the proposed text amendment. Ms. Teetor stated the proposed changes would grant staff the ability to act immediately to effect emergency repairs to correct failed septic systems after consulting with the Chairman of the Board of Well and Septic Appeals. Since a failure is defined as sewage on the ground, corrective action is required immediately, which is in conflict with the length of time required for the public hearing process. Jesse Russell, Zoning Administrator, stated that this is a health hazard that needs to be corrected as soon as possible.

Chairman Staelin suggested that the text be modified so that in emergency circumstances the entire Board of Septic and Well Appeals could consider the matter, and the public hearing could be waived.

Supervisor Dunning moved to set the matter for public hearing on January 20, 2004, at 10:00 a.m. or as soon thereafter as the matter may be heard.

The motion carried as follows:

- | | | |
|----------------------|---|-----|
| Chairman Staelin | - | Aye |
| Vice Chairman Hobert | - | Aye |
| Supervisor Byrd | - | Aye |
| Supervisor Dunning | - | Aye |
| Supervisor Weiss | - | Aye |

Referral of 2004 Agricultural District to Planning Commission

Jesse Russell, Zoning Administrator, appeared before the Board to provide a status update and the requests the Agricultural District Advisory Committee. He provided background information stating that the Agricultural District had been established in 1986; and currently has over 29,000 acres in said district. The renewal period for the Clarke County Agricultural District is every 6 years

He requested that the Board set a Public Hearing for the renewal, addition and withdrawal of agricultural lands, as well as amendments to the Agricultural District Ordinance at their regular April meeting in 2004 and refer this request to the Planning Commission at their regular January meeting.

He presented the following recommendations for additions to Agricultural District.

- 1) Martha and Eric Myer; TM# 21-A-76; 110 acres
- 2) J.C. Digges and Sons, Inc.; TM# 27-A-8; 142.51 acres; and TM# 27-A-6; 6.15 acres; and TM# 27-A-48; 34.50 acres; and TM# 36-A-1; 21.00 acres
- 3) H.K. Benham III; TM# 12-A-22; 17.5 acres

Jesse Russell stated that at this time there have been no requests for withdrawal from the Agricultural District. Applications for inclusion into and withdrawal from the Clarke County Agricultural District are still open and inclusions or withdrawals from the district may change prior to the Board of Supervisors April meeting. The Board may act on those changes at that time.

Mr. Russell reviewed the recommendation of the Clarke County Agricultural District Advisory Committee for changes amendment to the Agricultural District as follows: "*including qualified forestal lands* (properties that qualify for land use taxation) and *rename* the district to *Clarke County Agricultural and Forestal District*." Jesse Russell informed the Board that persons living on the mountain have expressed a desire to be included in the district.

Mr. Russell requested new appointments to the Agricultural Advisory Committee explaining that since 1998 committee members Jack Hardesty, Ken Erickson and Danny Franklin have retired. The Advisory Committee recommends the following replacement appointments:

John D. Hardesty, Jr. (Longmarsh District)
Debbie Norman (Longmarsh District)
Emily Day (Greenway District)

There was general discussion regarding review of the appointments by the Personnel Committee. Mr. Russell explained that the retired Advisory Committee members needed to be replaced as soon as possible. Also, the Committee was limited to eight members. Vice Chairman Hobert stated that he would like to see a representative from the mountain added to the Advisory Committee.

Supervisor Weiss moved to set the matter for Public Hearing for the April 2004 Board of Supervisors meeting and refer to the Planning Commission the applications for inclusion into the Agricultural District, and the proposed Ordinance amendment.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Supervisor Dunning to approve the new appointments to the Agricultural Advisory Committee.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Nay
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Discussion Of Committee Action

Personnel

Emergency Medical Services employees—a request from John H. Enders Fire Company.

Request for additional Compensation supplement for Health Department Employee.

Concurrence in distribution of Personnel Policy Manual at time of evaluation. Concurred in distribution of the policy in connection with personnel evaluations.

Special Request—Sheriff Recommends Approval—matter to be discussed in closed session.

Appointment to Authorities, Boards and Commissions

<i>Committee/Board</i>	<i>Appointee</i>	<i>Expiration Date</i>
Conservation Easement Authority <i>Mr. Bieschke is reappointed to serve a three-year term.</i>	John Bieschke	12/31/06
Conservation Easement Authority <i>Mr. Ohrstrom is reappointed to serve a three-year term.</i>	George Ohrstrom, II.	12/31/06
Northwestern Community Services Board <i>Dr. Goshen is reappointed for an additional three-year term.</i>	Dr. Robert C. Goshen	12/31/06
Northwestern Community Services Board <i>Mrs. Myer is reappointed to serve a three-year term.</i>	Martha Myer	12/31/06
CFFW Regional Jail Board <i>Mr. Jelinek is reappointed to serve a four-year term.</i>	David Jelinek.	12/31/07
Parks and Recreation Advisory Board <i>Mr. Huff is reappointed to serve a four-year term.</i>	Ronnie Huff	12/31/07

Supervisor Byrd moved to accept in whole all the appointments as presented.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Supervisor Byrd requested Supervisor Dunning provide names of Boyce residents who would be interested in serving on the Clarke County Sanitary Authority.

Board of Supervisors Work Session

Chairman Staelin provided an overview of the financial model used by the Joint Committee on School Construction [JCSC]. He also reviewed the proposed resolution recommended by the JCSC.

There was general discussion as to whether the schools and the government could hold to the proposed 5% expenditure escalator. Supervisor Dunning expressed his belief that it would be difficult to stay within the 5% noting that the budget had been 10% each year.

Chairman Staelin stated that both government and schools would have to operate within the budget and that the School Board had passed the proposed resolution.

Supervisor Dunning stated that the composite index continues to rise, which increases the amount the County must contribute to school operation. He opined that the County could be ruined if they did not stay within the budget. He also expressed concern for seniors and middle-income families, who might not be able to afford the proposed tax increase. Eleanor Smalley responded to Supervisor Dunning's query as to the school's ability to operate within the budget with a reiteration that the School Board had passed the resolution.

Supervisor Weiss requested information on the County's capacity to borrow for future projects. Mr. Staelin stated that by 2013, if they operate within the proposed budget, the County could borrow \$12.6MM. He further noted that this Board is not known for being extravagant or wasteful. Therefore, at this point there is little that can be cut without disrupting services. Mr. Weiss expressed his discomfort at raising taxes.

Supervisor Byrd expressed concern that the 5% cap could affect the County's ability to provide competitive salaries or hire additional personnel such as Sheriff's deputies. David Ash stated that it would be very tight particularly if the County has to expand services. She opined that if something went wrong the only recourse the County would have would be to raise taxes and/or reduce expenditures.

Supervisor Weiss expressed his appreciation to John Staelin and Michael Hobert for their efforts on the JCSC. Discussion followed regarding the split decision by the School Board on the passage of the resolution. The Board concurred that there was a crowding issue at the high school and the need for additional elementary school space.

Public comment was solicited from the audience.

Randy Jones: Mr. Jones stated that the Board of Supervisors has been careful with spending. He expressed his belief that, if necessary, private funds could be raised to cover as much as \$10MM.

Robina Bouffault: Mrs. Bouffault cited figures from the November 5, 2003 report from Moseley. She questioned the ability to properly renovate the high school for elementary use for \$2MM as currently shown. She expressed her desire to see adequate schools constructed. Mrs. Bouffault stated that she wanted to see a plan that made sense.

Following discussion, it was determined that a public meeting be held to solicit public comment.

Vice Chairman Hobert moved to set the matter for a public meeting to solicit citizen comment on January 14, 2004 at 7:30 pm at a location to be determined.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Finance

No action was taken by the Board on items before the Finance Committee.

Bills And Claims

- J. Michael Hobert, Vice Chair

Vice Chairman Hobert stated that expenditures for the schools were not included in the Board packet. Chairman Staelin summarized the Board’s request from its November 2003 regular meeting stating that the October bills for the school had been approved by the School Board but had not been forwarded to the Board of Supervisors for review. Mr. Judge stated that it was a public document and could be provided.

Eleanor Smalley, School Superintendent stated that it was the School Board’s responsibility to review and approve. Chairman Staelin concurred stating that Board of Supervisors did require that the School Board provide a copy of the approved bills and claims for school expenditures in a timely manner subsequent to review and approval. He requested Tom Judge to provide the reports for October and November for distribution with the January 2004 Board of Supervisors packet.

Vice Chairman Hobert moved to accept the Bills and Claims for government expenditures as presented for the month. The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Project Update

- David L. Ash, County Administrator

David Ash appeared before the Board to review the Project Updates, which were distributed as part of the Board of Supervisors agenda packet. There were no questions or issues raised by the Board regarding the status to date.

Discussion of Legislative Priorities

Chairman Staelin summarized his meeting with Delegate Joe May. The Honorable Joe May assured the Board that the off load of the schools retirement costs would not happen. He expressed his support for a county-wide speed limit of 45 MPH as long as it is agreed upon by all members of the Board of Supervisors. In Frederick County, the Board is divided on the matter; therefore, they will not present the legislature on the floor. Joe May is also supportive of impact fees. Mr. Staelin told the Board that Joe May might be running for Lieutenant Governor in the next election.

Report – Economic Development

- John W. Sours, Jr., Director Economic Development

Due to time constraints, John Sours did not appear before the Board of Supervisors; however, he did provide the monthly report, which was distributed as part of the Board of Supervisors agenda packet.

Miscellaneous Items

Fees for Service

Supervisor Dunning requested that fees for service in connection to the blasting ordinance be sent to the Finance Committee for review.

Summary Of Required Action

<i><u>Item</u></i>	<i><u>Description</u></i>	<i><u>Responsibility</u></i>
1.	Contact Parks and Recreation to determine whether there was a need for the property that was once a soccer field.	David Ash
2.	Contact Mr. Driver, Johnson Williams Senior Apartments, to have him address the Board with their proposal, what they deem affordable, as well as provide the proposed rents.	Chuck Johnston / David Ash
3.	Solicit input from the Town of Berryville regarding Senior Apartments.	Chuck Johnston
4.	Compose and distribute a letter regarding VRS to legislators.	David Ash
5.	Provide October and November 2003 Bills and Claims for school expenditures for distribution with the January 2004 Board of Supervisors packet.	Tom Judge
6.	Advertise for public hearings for Septic Ordinance.	David Ash
7.	Provide letters of appointment.	David Ash
8.	Advertise for public hearings for joint meeting of the Board of Supervisors and the School Board.	David Ash

Next Meeting:

The next regular meeting of the Board of Supervisors is set for January 20, 2004 at 9:00 a.m. in the Board of Supervisors Meeting Room at 102 North Church Street, 2nd Floor, Berryville, VA 22611.

Closed Session

Supervisor Byrd moved to convene into closed session pursuant to Section §2.2.3711-A1 and §2.2.3711-A3 of the Code of Virginia, as amended, to discuss personnel and real estate issues.

The motion was approved as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Weiss moved to reconvene in open session. The motion carried as follows:**

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Supervisor Weiss moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Adjournment:

There being no further business to be brought before the Board the Chairman adjourned the meeting at 4:55 p.m.

ATTEST: December 16, 2003

John Staelin, Chairman

David L. Ash, County Administrator